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of Engineers

Construction Bulletin

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Subject: Occupational Safety and Health Administration (OSHA), Department of Labor "Occupational Exposure to Asbestos" Final Rule

Applicability: INFORMATION

1. Reference Occupational Safety and Health Administration (OSHA), Department of Labor "Occupational Exposure to Asbestos" Federal Register /Vol. 59, No. 153/ August 10, 1994, final rules.

2. INTRODUCTION. The final standards amend CFR 1910.1001 for occupational exposure to asbestos in general industry, and 29 CFR 1926.1101 for construction industry (previously 1926.58). In addition, they include a separate standard covering occupational exposure to asbestos in the shipyard industry, 29 CFR 1915.1001. A key provision of the standards cuts in half the permissible exposure limit (PEL), from 0.2 fibers per cubic centimeter (0.2f/cc) as an eight-hour time-weighted average (TWA) to 0.1 fibers per cubic centimeter (0.1f/cc). Under hazard communications provisions of the standard, the owner of a building constructed before 1980 which contains thermal system insulation and/or sprayed-on or troweled-on surfacing material must presume this material contains asbestos. The owner, in this case, will have the flexibility to either sample the material and determine whether or not it contains asbestos or make the presumption that the material contains asbestos and handle it appropriately. In construction work involving asbestos, four classes of hazardous types of construction activity are matched with increasingly stringent control requirements. The four classes are defined in the enclosure.

3. PURPOSE. The purpose of this construction bulletin is to familiarize you with OSHA's revisions to 29 CFR 1926.1101.

4. SUMMARY OF REVISIONS TO 29 CFR 1926.1101. The revisions became effective October 11, 1994 except where stated differently. These revised standards:

a. apply to activities such as demolition or salvage of structures where asbestos is present; removal or encapsulation of materials containing asbestos; construction, alteration, repair, maintenance, or renovation of structures that contain asbestos; installation of products containing asbestos; asbestos spill/emergency cleanup; and transportation, disposal, storage,

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containment of and housekeeping activities involving asbestos or
products containing asbestos, on the site or location at which
construction activities are performed;

- b. cut the PEL in half as stated in paragraph 2;
- c. cover rules and responsibilities for multi-employer
worksites;
- d. cover exposure assessments and monitoring requirements;
- e. cover methods of compliance such as engineering controls
and work practices (effective date April 10, 1995);
- f. cover respiratory protection requirements (effective date
February 8, 1995);
- g. cover protective clothing requirements;
- h. cover hygiene facilities and practices for employees
(effective February 8, 1995);
- i. cover communication of hazards (effective April 10,
1995);
- j. cover duties of building and facility owners and house
keeping practices (effective date January 9, 1995);
- k. cover medical surveillance (effective date January 9,
1995); and
- l. require the designation and training of competent
personnel to ensure worker safety and health (effective date
April 10, 1995). (For your information, a separate CB will be
issued pertaining to required asbestos training and QA
responsibilities.)

5. IMPLEMENTATION.

a. Directors of Construction and Construction/Operations
must assure compliance with the revised standards by:

(1) requiring the evaluation of active construction
contracts that may be impacted by the revised rules, and
informing affected contractors of their obligation to comply with
its requirements and deadlines. Compliance may require new job
hazard analyses, submittal of revised site-specific health plans
involving upgrade of required personal protective equipment, or

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definitive engineering controls (such as local exhaust ventilation equipped with HEPA filter dust collection, enclosure or isolation of processes producing asbestos dust, etc);

(2) developing (in coordination with the local safety office) procedures to assure that QA personnel are knowledgeable of the requirements of the revised standards, and that proper personal protective equipment and medical surveillance are provided and used when necessary;

(3) assuring during BCOE reviews that future contracts reference the revised standards; and

(4) requiring area/resident engineers to coordinate all necessary actions with the design district and the local safety office as appropriate.

b. Under an appeal of an ASBCA decision, the Court of Appeals for the Federal Circuit has held that a construction contractor is entitled to an equitable adjustment due to changes in OSHA regulations enacted after contract award, if those changes caused the contractor to incur additional costs or time. (refer to Court's decision (Hills Materials Co. v. Rice, 982 F.2d 514 (Fed. Cir. 1992))). This information is provided for your consideration when recommending contractor's entitlement to an equitable adjustment due to OSHA's revisions.

6. This Construction Bulletin has been coordinated with the following HQUSACE organizations: Safety and Occupational Health Office (CESO-ZA); Operations, Construction and Readiness Division (CECW-OC); and Office of the Chief Counsel (CECC-C).

Enclosure


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DEFINITIONS

1. Class I asbestos work means activities involving the removal of asbestos containing material (ACM) or presumed asbestos containing material (PACM) that is thermal system insulation and surfacing material.

(most Class I work requires use of negative-pressure enclosures. The standard allows other designated proven control systems in limited circumstances for Class I work and provides for yet-to-be- developed systems. Employers who use new or modified control technolog to reduce exposures in Class I asbestos work in construction work must notify OSHA in advance).

2. Class II asbestos work means activities involving removal of other types of ACM such as resilient flooring and roofing ACM.

3. Class III asbestos work means activities involving repair and maintenance where ACM or PACM is disturbed.

4. Class IV asbestos work means custodial activities during which employees contact ACM or PACM as well as activities to claen up waste and debris that contains such material.